

Instructions: Notice of Voluntary Dismissal

This packet was prepared by the Justice & Diversity Center, a nonprofit organization, and is not an official court form.

Checklist

This packet provides a Notice of Voluntary Dismissal form and a Certificate of service. **It is also available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/civillitpackets.** This packet includes the following forms:

- Notice of Voluntary Dismissal
- Certificate of Service

General Instructions

- A. The purpose of a Notice of Voluntary Dismissal is for the plaintiff to dismiss the lawsuit either as a whole, or as against any particular defendants. A court order is not required.
- B. A plaintiff may wish to voluntarily dismiss a lawsuit for any of the following reasons: (1) plaintiff determines that s/he has no realistic chance of winning the lawsuit and would like to avoid a judgment on the merits in defendant's favor; (2) plaintiff wants minimize the risk of liability such as malicious prosecution or to avoid liability for defendant's attorney's fees; or (3) during settlement discussions, plaintiff wants to use the voluntary dismissal in exchange for a waiver of court costs or any other rights the defendant may have against the plaintiff.
- C. Generally, a plaintiff has a right to file a Notice of Voluntary Dismissal at any time before the defendant serves either an answer or a motion for summary judgment.
- D. This Notice of Voluntary Dismissal form states that the dismissal will be "without prejudice," which generally means that the plaintiff may sue again on the same claim. Seek legal advice to make sure you can file again. But if this is the second time that a plaintiff has attempted to sue on this claim (in state or federal court), filing this Notice will be considered a dismissal "with prejudice," regardless of the language included in the form. "With prejudice" means the plaintiff cannot file another suit based on this claim.
- B. Fill out each of the included forms COMPLETELY. Suggestions are provided [*in brackets and italics that look like this*] to help you fill in the blanks. Be sure to sign and date each form.
- C. Serving the Papers. Make sure the Notice of Voluntary Dismissal is filed with the court. The Notice must also be served on the opposing party in one of the ways listed on the Certificate of Service. Have the person who served the Notice fill out the Certificate of Service. You can serve the Notice yourself. As with any paper in your case, keep a copy for yourself.

More Information

This packet does NOT tell you everything you need to know about a Notice of Voluntary Dismissal. **Before you file a Notice of Voluntary Dismissal**, we recommend that:

- If your case is in the San Francisco/Oakland federal courthouse, make an appointment with the **Legal Help Center** for free legal information and advice by calling 415-782-8982 OR sign up at 450 Golden Gate Ave., S.F., 15th Floor, Room 2796 OR 1301 Clay Street, Oakland, 4th Floor, Room 470S.
- If your case is in San Jose, make an appointment with the **Federal Legal Assistance Self Help Center** by calling (408) 297-1480 OR by signing up at 280 South First Street, S.J., Room 2070.

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Your Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
E-mail Address: _____

Pro Se Plaintiff

United States District Court
Northern District of California

[Select one: San Francisco / Oakland / San Jose / Eureka]

Plaintiff(s),
vs.
Defendant(s).

Case Number: _____

NOTICE OF VOLUNTARY DISMISSAL

TO THE HONORABLE COURT, ALL PARTIES HEREIN AND THEIR RESPECTIVE
COUNSEL OF RECORD:

I am the Plaintiff in this matter and I voluntarily dismiss this lawsuit pursuant to Federal
Rule of Civil Procedure 41(a). Such dismissal shall be without prejudice, with each side to bear
its own costs and fees.

Date: _____ Sign Name: _____
Print Name: _____

CERTIFICATE OF SERVICE

Use this form to show that a paper or document (other than a complaint) was served (sent or delivered) to an opposing party in accordance with Federal Rule of Civil Procedure 5. A different form is needed to serve a complaint under Federal Rule of Civil Procedure 4.

Case name: _____

Case number: _____

What document was served? *(Write the full name or title of the document or documents, e.g., "Plaintiff's Opposition to Defendant's Motion for Summary Judgment.")*

Title(s): _____

How was the document served? *(Check one.)*

- ☐ Placed in U. S. Mail
- ☐ Sent by fax
- ☐ Hand-delivered
- ☐ Sent by delivery service (e.g., FedEx or UPS)

To whom was the document sent? *(Write the full name, address, and fax number of everyone who was sent the document. Usually, they will be the lawyers for the opposing parties.)*

When were the documents served? *(When were they mailed, faxed, or delivered?)*

Date: _____

Who served the documents? *(Whoever puts it into the mail, faxes, hand-deliveres, or sends by delivery service should print his/her name, address and sign. You can also do this yourself.)*

I declare under penalty of perjury under the laws of the United States of America that the information in this certificate of service is true and correct.

Signature: _____

Printed name: _____

Address: _____